IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

HON'BLE Mr. JUSTICE GODA RAGHURAM
AND
HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.14905 of 2005

Dated: November 28, 2007

Between:

P. Babu Rao, S/o. Sanyasi Rao, aged about 62 years,
Special Grade Amin (Retired) R/o.36-33-29, Lal Saheb,
Near V.T. Junior College, Innispeta, Rajahmundry,
East Godavari District.

… Petitioner

And

The Government of Andhra Pradesh, represented by
The Secretary, Home (Courts-D) Department,
Secretariat, Hyderabad, and others.

… Respondents

Order: (Per GR, J)

The petitioner retired as Special Grade Amin in the Judicial service of the State on 31-12-2001 on attaining the age of superannuation. While in service, the petitioner and eleven others, who were working as Amins in the Judicial department, filed

W.P.No.11683 of 1994 seeking a direction to the respondents therein to revise their pay scales to Rs.240-420/- with effect from 01-07-1994 with a liberty to exercise an option to opt for the said scale.

2. Earlier, W.P.No.1277 of 1988 was filed by 12 persons similarly situated as the petitioner herein seeking an identical relief as in W.P.No.11683 of 1994. A learned single Judge of this court, by judgment dated 06-09-1993, had disposed of W.P.No.1277 of 1988 recording that if the Shroffs in the Government Department were paid the time scale of Rs.240-420/-, with effect from 01-01-1974, the petitioners shall also be paid the same time scale from 01-01-1974 onwards. The judgment directed respondents 1 and 2 therein to take action as per the judgment within a specified time.

3. Aggrieved by the judgment in W.P.No.1277 of 1988, respondents filed W.A.No.1028 of 1994. In the appeal, it was contended on behalf of the State that Amins in the Judicial department cannot be equated with the Shroffs in the Treasury and Accounts Department since the duties of Shroffs are more onerous and responsible in nature. On empirical basis, it was further contended on behalf of the State that there could be difference of pay scales in respect of officials working in distinct departments of the State and such a disparity cannot constitute arbitrariness or be held to be violative of Article 14 of the Constitution of India.

4. A Division Bench of this Court, by judgment dated, 26-06-1996 allowed W.A.No.1028 of 1994. The Division Bench noticed that there is a contest as to the entitlement of the category of Amins on their claim for parity of pay with Shroffs and that the contest by the State of this claim was on the ground that there was no equality between the two categories as to warrant extension of an identical pay scale. In the

circumstances, the Division Bench, while setting aside the judgment in W.P.No.1277 of 1988, directed the State to consider the whole issue *de novo* giving a further liberty to the petitioners therein to submit a fresh representation to the State.

5. Meanwhile, the Pay Revision Commission, in 1978, considered the issue, rectified the anomaly between the pay scales of Amins/Bailiffs on the one hand and Shroffs in the Government departments/Treasuries and Accounts Department on the other and recommended grant of the same pay scales to both the categories. Accordingly, in the P.R.C. 1978, the pay scales of Amins/Bailiffs and Shroffs in the Government departments/Treasuries and Accounts Department were equivalised to Rs.410-625/-, in rectification of the earlier anomaly. Even after 1978, in successive P.R.Cs., of 1986, 1993, 1999 and 2005, there was neither anomaly nor discrimination in the category of Amins/Bailiffs vis-à-vis Shroffs in the Government departments/Treasuries and Accounts Department. In fact, in the P.R.C of 1993, 1999 and 2005, the category of Amins/Bailiffs, since re-designated as Field Assistants, were granted a higher pay scale than Shroffs in the Government departments/ Treasures and Accounts Department. The past anomaly is thus wholesomely rectified, but prospective from 1978 P.R.C.

6. The only grievance of the petitioner is that the anomaly in the P.R.C. of 1974 is not rectified, i.e. with effect from 01-01-1974. The petitioner has litigated against this anomaly by instituting W.P.No.11683 of 1994, along with 11 others, twenty years after arisal of the anomaly.

7. In an additional counter affidavit filed on behalf of the State dated

22-10-2007, the first respondent admits that despite the judgment of the Division Bench referred to supra, the State did not take any expedient action for reconsidering the claim of the petitioner and the other persons belonging to the category of Amins. In an ambiguous pleading, the first respondent would state that particulars of the persons responsible for not processing the file after the judgment of the Division Bench of the High Court in 1996 has been called for so as to fix responsibility on the concerned. Such is the state of carelessness by the Executive arm of the State in responding to the directions of a Constitutional authority. We intend to leave the matter there for the better sense of the Executive Arm of the Government to ponder over and reflect upon. In this counter, it is further pleaded that on 12-10-2007, the issue was referred to the Finance Department and the Finance Department reiterated the fact on 18-10-2007 with an observation that since the category of Amins of the Judicial Department was assigned revised pay scale in 1978 P.R.C., bringing about parity with the category of Shroffs, the anomaly that arose pursuant to the 1974 P.R.C. was rectified in the 1978 P.R.C. There is absolutely no mention either in the Finance Department's file noting or in the first respondent's counter or additional counter as to the response of the State to the anomaly pursuant to the 1974 P.R.C. The State is seen not to have applied even residual mind to the issue of the anomaly during the period and currency of the anomaly, i.e. during the currency of 1974 P.R.C.

8. The only question that remains is whether the petitioner is entitled to succeed on the basis of the incapacity of the State to understand a directive of the Court or its incapacity to file a coherent counter affidavit. It is a well-settled principle that a plaintiff, as a *dominus litis*, will have to succeed on his own steam and cannot

depend upon the weakness of the defendants. From the chronology of events and the evolution of the anomaly and its rectification, the conclusion is compelling that even the State has recognized the existence of an anomaly in the pay scales granted to the category of Amins vis-à-vis the Amins/Bailiffs and Shroffs in the Government departments/Treasuries and Accounts Department. There was thus an admitted anomaly pursuant to the 1974 P.R.C., which has been rectified since the 1978 P.R.C.

9. The question, therefore, remains whether the petitioner is entitled to the monetary benefits consequent on a declaration of invalidity of the difference and discriminatory pay scale in the 1974 P.R.C. and in tune with the rectification effected by the 1978 P.R.C. Before this issue falls for determination, it requires to be considered that the very first litigative campaign of the petitioner was in 1994, 20 years subsequent to the arisal of the cause of action – a hopelessly belated attempt. Now, 33 years have gone by and what was a belated claim in 1994 has now become an obsolete claim. On the ground of delay and laches, the petitioner is not entitled to grant of any relief. The relief, *in specie*, sought in the writ petition, does not commend acceptance of this court and is accordingly rejected.

10. In the result, the writ petition fails and is accordingly dismissed; however, in the circumstances without any order as to costs.

JUSTICE GODA RAGHURAM.

JUSTICE R. SUBHASH REDDY.

November 28, 2007
MRR